

RESTRICTION

The Office Action restricted Claims 1-22, as follows:

- I. Claims 1-9, 11 and 12, drawn to a vector comprising one or more than two of the genes pgsB, pgsC and pgsA, and a gene encoding an amphiphilic peptide antibiotic with antibacterial, antifungal and anticancer activities, which is P5, and host cells comprising said vector, classified in class 435, subclass 320.1
- II. Claims 1-3, 13-18, and 20-22, drawn to a vector comprising one or more than two or the genes which are pgsB, pgsC and pgsA, and a gene encoding an amphiphilic peptide antibiotic and antibacterial, antifungal and anticancer activities which is Anal3, classified in class 435, subclass 320.1
- III. Claim 10, drawn to a method of producing lactic acid forming bacteria with P5 expressed on the surface, classified in class 435, subclass 435, subclass 471.
- IV. Claim 19, drawn to a method for producing lactic acid-forming bacteria having Anal3 expressed on their surface, classified in class 435, subclass 471.

ELECTION

The Applicants hereby elect method Claims 1-9, 11, 12 in Group I, **with traverse**.

AMENDMENT

Applicants hereby cancel without prejudice claims 10 and 19 drawn to the non-elected embodiments.

REMARKS

Applicants respectfully traverse the restriction requirement. Applicants traverse the requirement because a portion of the claims included in Group II, claims 1-3, were specifically recited in Group I. Consequently, the attempt to create Group II with overlapping claims does not comport with USPTO practice with respect to restriction requirements.

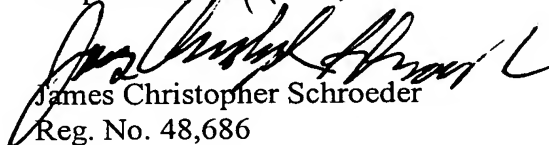
In addition, Group I claims 1-9, 11 and 12 are integrally related to Group II claims 1-3, 13-18, and 20-22 by design, operation, and effect. The recitation of particular amphiphilic peptide antibiotic simply details an embodiment which can be employed by way of the disclosed poly-gamma-glutamate synthetase complex. Consequently, it is inappropriate to exclude the Group II claims from this review since the review of references for the poly-gamma-glutamate synthetase complex as it relates to the P5 peptide will result in similar if not the same considerations when considered from the perspective of dependent claims which recite the Anal3 peptide. Group I and Group II both involve amphiphilic peptide antibiotics and as such have similar modes of operation, functions, and as antibiotics, both have similar effects. The transformation of a microorganism with the disclosed vectors result in similar analyses and research burdens, and as such the additional claims 13-18 and 20-22 of Group II are appropriate subject matter during the review of the Group I claims. Consequently, the request to restrict Group II is hereby traversed.

Applicants further traverse the Office Action's finding that the search required for Group I is the same required for Group II, which would not result in an undue burden when making examination of the claims of both groups. As P5 and ANAL3 are both amphiphilic peptide antibiotics, the search involved for each is quite similar if not the same. Based on the foregoing remarks, Applicant respectfully requests withdrawal of the restriction requirement.

CONCLUSION

Applicants respectfully submit that herein elected Claims 1-9, 11, 12 in elected Group I, and the claims 13-18, and 20-22 in traversed Group II are believed to be in allowable form. As Group II impermissibly recites the same claims as Group I the restriction with respect to Group II is traversed and prosecution with a combination of all Group I and Group II claims should hereby commence. Therefore, favorable consideration of the foregoing election, amendment and these remarks are kindly requested. The Examiner is cordially invited to telephone the undersigned for any reason which would advance herein elected method claims to allowance.

Respectfully submitted,


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